

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

The Town Council of the Town of Tiverton, County and State aforesaid held a Special Council Meeting on Monday, the 1st day of August 2016 at 7:00 p.m. at the Tiverton High School Auditorium, 100 North Brayton Road.

MEMBERS PRESENT:

Council President deMedeiros, Vice-President Chabot, Councilor Lambert, Councilor Mello, Councilor Pelletier, Councilor Perry and Councilor Sousa..

Town Solicitor Anthony DeSisto and Town Administrator Matthew Wojcik were also present.
Clerk Mello was absent

Call To Order

Council President deMedeiros called the meeting to order with a pledge of allegiance to the flag.

ADVERTISED PUBLIC HEARING – CONTINUED FROM JULY 25, 2016
Proposed Tiverton Home Rule Charter Amendments for November Ballot

a. Councilor Perry – Amendment Regarding Amount of Signatures Needed for FTR Alternate Petition

Councilor Perry explained the change to his proposal from last week was to change the verification time from 21 to 14 days and to have 500 signatures instead of 10%. President deMedeiros opened the public hearing for comments from the public on this first proposed amendment. At the meeting last week Solicitor DeSisto verified the questions could be amended right at the meeting. Solicitor DeSisto explained the initial proposal was for 10% of the signatures, the original proposal is a continuation of last week's hearing. Councilor Perry offered an amendment to the language; this can be amended at the public hearing. The only other change was for the proposal from Mrs. O'Dell; the Solicitor drafted language for that as part of this packet. Mr. Caron questioned Councilor Perry on the rationale. Councilor Perry has spoken to many people who wanted to know when something was going to be done about the 50 signatures. Some other towns require 10%, other residents suggested 500 signatures. Mr. Caron noted the 50 signatures came from the old Financial Town Meeting (FTM). President deMedeiros opined the 500 signatures meant people would be more informed.

Mr. Caron noted the many questions and the various items they referenced including the removal of the Budget Committee. He suggested eliminating questions #a and #b and keeping #i or eliminating #i and keeping #a and #b. That way the language would be consistent as there would be some cross language issues with this hurried process. Mr. Caron was a member of the Financial Town Meeting Changes Ad Hoc advisory committee several years ago. Councilor Sousa opined there should be a Charter Review committee; need to get that process started. Andrea Souza, Stoney Hollow Road agreed about having the 500 signatures. Roger Bennis suggested all these proposals should have the same question: Shall the Town of Tiverton Charter be amended. There is some contradiction with the wording of some of the items. Mr. Bennis opined if some items pass then others would become overwritten and going from 50 to 500 signatures seems to be a big jump. Bill Lopes, Old Colony Terrace, did not agree with Councilor Perry; troubled with how he came up with 500, sees no scientific evidence. Mr. Lopes did not have a problem with 100 to 150, no justification for a 3% budget increase with a 1% cost of living increase. President deMedeiros noted the Town needs more revenue, cannot keep taking from the General Fund. There are consequences to the cuts; the Council met on seven Saturday's at the beginning of January to discuss the budget. Kelly Levesque, Teaberry Drive was in favor of increasing from 50, suggested looking at 301 which was the quorum for the FTM. Tom Morse, Countryview Estates, opined more cuts were needed. Social security went up 2% and for the last three years went up zero; Social security is tied to the consumer price index (CPI). Mr. Morse believed the problems were with the unions. Elizabeth Lopes, Old Colony Terrace, requested the time to be increased to get more signatures.

Justin Katz, Cottrell Road, spoke to the notion of rushing the process and the merits of the proposal. This proposal would apply to resolutions as well; opined this was a terrible way to do this; not reasonable to expect someone to

get 500 signatures in less than two weeks. Mr. Katz agreed with one of the other speakers that this was a political response in losing the budget vote. Mr. Katz suggested getting a commission to review and give people more time. Carol Herrmann, Main Road, noted the small audience of people, suggested putting it on the ballot and letting the people decide. Bruce Hansen, Highland Road, gave feedback on the perception of the process. Mr. Hansen's point was this comes across as being confusing on purpose. President deMedeiros noted none of these proposals were from the Council as a whole. Donna Cook, Hilton Street, talking as a BC member, opined the budget process was not well thought out; this was about control of the money. Ms. Cook opined the problem was not the 50 signatures. Sally Black, Broadview Drive stated the process is transparent, the Police, teachers and fire employees are among the lowest paid in the State. Mrs. Black did not have a problem with the 50 signatures but with the petitioner not having to defend that budget; the School Department and Council have to defend their budgets. Councilor P. Mello agreed with Mrs. Black, did not have a problem with the 50 signatures but the petitioners' budget should be part of the process from January. Mr. Lopes suggested the budget needs to be more thought out. Councilor Perry opined the budget was thought out but there is not enough commercial development.

Diane Farnworth, Pocasset Avenue, noted there was nothing to stop someone from submitting a negative budget, need some sort of control. Mr. Bennis contradicted the statement the FTR was not working; opined the schools were not being maintained in order to get a school repair bond. Councilor Pelletier noted the schools were built in the 1960's and 70's. The Town is a very large enterprise; does not operate like a household. Mr. Katz again suggested continuing this discussion over more time; Council does not have to come up with a decision on the fly just to get the questions on the ballot. Councilor Pelletier noted this was a reactive process to residents who request to be heard; opined there was merit to the review commission and structural changes. President deMedeiros called for comments from the public three more times, hearing none closed the public hearing on question a. President deMedeiros questioned if the Council wanted to vote now; Councilor Pelletier suggested waiting until the end as a change to one of these questions may affect another one and then vote on the final language.

b. Councilor Perry – Regarding Limiting Changes to Budget Committee's Recommendation For Operating Budget Only to No More or Less than \$200,000

Councilor Perry proposed changing Section 301 of the Charter to limit the changes for any petitioner's budget to no more than \$200k from the BC recommendation. Mr. Caron opined the drafted language was filled with ambiguity. The BC proposes two budget, the School and Municipal, not one budget. Mr. Caron saw a conflict in sentence two regarding the operating budget and in sentence three regarding working capital. The technical language issues need to be worked out. Mr. Caron opined the General Fund may grow a surplus because the people were overtaxed. For many years the BC used to have a General Fund offset; this language would prevent the petitioner from doing and be limited to only a .5% swing. Mr. Caron opined these restrictions reduce and eliminate the voice of the people. Councilor Perry responded, some savings come up through the year, do not try to overtax people. By State law the budget cannot exceed 4%. Mrs. O'Dell had issues with some of Mr. Caron's comments. One year too much was taken out of the General Fund; the levy changes from year to year. Councilor Perry noted the Council has looked to reduce spending, can't keep taking out of the General Fund. Portsmouth has \$11 million in their fund and Middletown has \$15 million; they don't have to pay interest when they borrow. Sanford Mantell, Budd Way, opined \$200k was not significant eight years ago at the FTM. Mr. Lopes suggested using the cap minus the cost of living as a benchmark; need to reconsider the \$200k and all the alternatives. If the budget went up 4% then the \$200k would be meaningless; need to help keep a lid on spending. Mrs. Lopes asked the Council to listen to the people; there were 173 foreclosures last year, did not want to cap the ability to make changes. Mr. Katz also had issue with the language relative to capital; this would be a good item for a Charter commission. James O'Dell, Warren Avenue, noted Mrs. O'Dell was referring to the FTM and the General Fund depletion and the year it went below the \$300k resulting in the 11% increase. Mr. Caron took issue with Mr. O'Dell's comments relative to the \$300k.

Councilor Sousa asked the Solicitor what would happen if the budget was below the Town's obligations. Solicitor DeSisto explained the Budget is approved each year by the State; depending on the Town's financial position they may have to appoint a receiver. Administrator Wojcik noted the Charter is a fundamental document; agreed the words working capital is completely inappropriate. All of the accounts are cleared every single year; the Town

Charter does not have a specific process for recovering funds from the General Fund at a minimum. The T/A opined it was the taxpayer's money and should not be removed without specific direction. This year the budget was remanded to the BC who took a vote not to take any money out of the General Fund.

c. Town Solicitor – Section 1010- Removal of Wastewater Management Commission

Solicitor DeSisto explained the Council passed an ordinance to eliminate all the provisions in the Code that now has to do with the Tiverton Wastewater District; Section 1010 of the Charter also needs to be removed.

President deMedeiros called for comment from the audience. Mr. Bennis questioned if people voted to accept sewers what is to stop people from changing that. Solicitor DeSisto explained this was no longer a part of Town government; this took place before this Solicitor was hired. Councilor Chabot noted this was similar to the water districts; they have their own rules and regulations as State law has been passed. Solicitor DeSisto noted they are also subject to the Open Meetings Act, public records requests and the procedures act.

d. Town Administrator – Section 1007- Personnel Board – Amendment for Advertising Requirements

Administrator Wojcik explained times have changed newspaper subscriptions are way down. This proposed amendment would make this subject to advertising and a recruitment plan with the Personnel Board to get the largest pool of applicants. One of the other suggested changes would be to send one or two names to the Administrator as a minimum number. This proposal has been vetted by the Personnel Board and also includes updating the Equal Employment Opportunity language as suggested by the Board. Solicitor DeSisto noted this was standard language typically included for governmental entities.

e. Justin Katz – Regarding Balloting on Major Appropriations - Adding Substantial New or Increased Fees or Other Revenues and Requiring Local Voter Approval Prior to Implementing New or Increased Fees or Other Revenue Sources Projected to Cost Residents \$20,000 or More Than Cost in Prior Year

Mr. Katz explained this was based on the discussion of the trash pickup, seems any fee should get some review by taxpayers. Mrs. O'Dell disagreed with Mr. Katz, has more to do with line items in the budget. Mr. Katz noted this was about giving taxpayers some say in granting fees. Councilor Pelletier opined this restricts the Town in the ability to operate without having to rehash issues. Councilor Pelletier noted some fees were unexpected and some pay voluntarily; used harbor mooring fees as an example. Mr. Katz suggested the people ought to have a right to say no to a fee; not going to tax but call it a fee. Solicitor DeSisto questioned Mr. Katz on whether the revenue included taxation and if so would it require a separate vote other than approving the budget. Solicitor DeSisto also questioned revenue other than fees, taxation or something other than taxation. Mr. Katz noted the \$20k seemed like a reasonable number; like everything else the Council has the ability to change or direct this to a Charter review. Mr. Mantell clarified this would be a new or increased fee referred to action by the Town Council. Jerome Larkin encouraged the Council not to adopt any of these related to the budget process or Charter change budget process, suggested the need for a Charter review. Mr. Bennis suggested adding the word substantial in front on any new or existing fees. Dave Couto suggested dealing with fees at the time of the budget. Mr. Katz suggested taking out the words "increased fees" as a reasonable compromise.

President deMedeiros called for a ten minute recess at 9:40 p.m.

The public hearing resumed at 9:50 p.m.

f. Jeff Caron/Nancy Driggs – Requiring Budget Committee to Obtain Approval of at Least Four Fifths of Its Membership Before Recommending Any Tax Levy Increase Greater Than Two Percent More Than Prior Year

Mr. Caron thanked Councilor Pelletier for asking the public to submit proposals. Mr. Caron explained this proposal amounted to a tax cap; opined it would be nice for the BC to have a goal. This is an attempt to put a goal for the BC by default; State tax cap is 4% on the levy, the 2% is the mid-point. Mr. Caron's language included requiring an affirmative 4/5 vote of the full BC which would be 9 of the 11 member committee. This proposal would still allow for flexibility in a dire situation. Mrs. Cook commented on the budget process, opined the 2% would give guidance to the BC. Mr. Katz suggested putting in the Charter some form of mechanism for a cap for

the budget. Councilor Sousa found this to be better than most of the proposals, suggested this should go to a Charter review committee, has some merit.

g. Madeline O'Dell – Regarding Holding Executive Sessions at End of Council Meetings

Mrs. O'Dell recalled a meeting when Executive Session was at the beginning of the meeting and lasted quite a long time. Mrs. O'Dell opined this did not seem transparent was disrespectful to the audience. Mrs. O'Dell questioned the Solicitor if there is a violation of the Open Meetings Act when a meeting starts at a certain time. Solicitor DeSisto explained the public body does have the ability to change the order of business. The Town does have Executive Session at the beginning of a meeting if another attorney is charging the Town. Mrs. O'Dell noted in years past it was at the end of the meeting, seems more often than not to be at the beginning of the meeting. Councilor Lambert explained this came about 5 years ago from constant complaints when attorneys and professional consultants were charging the Town and usually the applicant some \$150-200 dollars per hour and would be sitting there for several hours. Councilor Lambert suggested this be enacted at the discretion of the Town Council or in an emergency situation or in a situation in which fees are being incurred by the applicant or the Town. Mrs. O'Dell suggested starting the meeting at 6pm and have Executive Session before the meeting starts. Councilor Sousa opined having Executive Session at the beginning of a meeting was not giving an item its due diligence. Councilor Sousa opined this was not a Charter change. Mr. Bennis agreed with Mrs. O'Dell, suggested holding Executive Session before the Council meeting with the strict provision it is not to interfere with the remainder of the Town Council meeting. Councilor Perry noted some Councilors work out of town, can be difficult for them to arrive at 6pm, suggested leaving this up to the discretion of the Council.

Mr. Bennis proposed an addition to Mrs. O'Dell wording by adding section 4.0, the Open Public Forum for comments and questions shall be moved to the beginning of the Town Council agenda after the Consent Agenda and before public hearings and public presentations. The Open Public Forum was moved down to H-1 in the agenda over a year ago. Councilor Sousa noted there was never a vote by the Town Council to move that, the agenda is put together by the Town Clerk and the Council President; where it appears is under the purview of the Council President. President deMedeiros explained at any time a Councilor can move that up to the front of the agenda. The Council President did discuss this with the Council and moved it down because people were discussing items that were further down in the agenda. The Council President allows people to talk, does look at the list closely to make sure these people get to speak. Councilor Lambert suggested leaving it up to the discretion of the Council President. Mrs. Cook supported this Charter change, did not agree with having one person deciding. Mr. Katz suggested having a separate meeting at 7 for 8pm; Councilor Pelletier noted this was all the same meeting, can split if the Council wants to. Mr. Katz suggested this item should go to a Charter review committee for more discussion; agreed it was a discretionary thing. Councilor Pelletier advised there is nothing to prevent anyone from putting an item on the agenda; there is a procedure and a process. Councilor Pelletier does not like the Open Forum as the Council can only listen and not engage in a conversation. Councilor P. Mello noted the Council President has allowed anyone and everyone the chance to speak on any subject. Councilor Sousa opined by having it at the back of the docket was a way of shutting down debate; President deMedeiros stated that was absolutely not true.

h. Peter Moniz – Regarding Providing Specific Line Items to Be Increased, Decreased or Created on Petitioner's Budget Proposal

President deMedeiros noted Mr. Moniz was not in attendance, called for public comment on this item. Mr. Caron gave some background on the FTM and some things carried over to the FTR, the advisory committee at the time felt it was an undue burden for a voter, elector or petitioner to change a line item and therefore offered a remand feature. Mr. Caron opined the language conflicts with number 2; explained the remand feature allows taxpayers and voters the ability to vote for a bottom line ; don't have to have expertise on a budget. Councilor Perry opined that people who have no knowledge of a budget should not be putting a budget together. Mr. Caron agreed opined that was why the remand feature was there to let the BC do that work. Mr. Bennis opined this created more work for the School budget. Mr. Katz did not agree with the rationale of people with no experience making a budget; did not expect the BC to be so reckless or the Town Council to go along with it. Mr. Katz encouraged the Council not to take action on this; did not anticipate having to remand another budget in the foreseeable future.

i. Councilor Perry – Regarding Eliminating the Budget Committee and the Financial Town Referendum and Replacing With a Process Whereby the Town Council Enacts a Budget Subject to Possibility of an Elector Petition for Specific Changes to the Budget

Councilor Perry proposed eliminating the Budget Committee (BC). Councilor Perry compared the process to different towns and noted Massachusetts has a totally different way of distributing money. On Page 1 struck out any wording to do with the FTR and included new wording that outlined the Budget process. This proposal has been available since last Wednesday and has the Town Administrator preparing and submitting a budget to the Town Council no later than January 15. The Town Clerk and Town Treasurer would still be submitting their own budgets. Page 3 eliminates the BC, page 4 eliminates anything to do with the BC and the FTR and page 8 adds at a special or general election. President deMedeiros called for comments from the public. Mrs. O'Dell called this an extremely bad idea; the BC provides checks and balances for the Town Council. Mrs. O'Dell who is a BC member opined you can't compare the work of the BC to the Council. Mrs. Cook who is a member of the BC, was not for the Council having all that power, need to have checks and balances. Mrs. Cook also agreed with the 2% cap and giving the BC guidance, opined the BC has a different job than the Council; they look at the School Department and the budgets to see if there is justification for the expense, did not support anything Councilor Perry proposed. Councilor Sousa objected to taking this on, the Administrator and the BC do most of the work on the budget. Diane Farnworth completely supported Councilor Perry's proposal to eliminate the BC and the FTR. Solicitor DeSisto was concerned with the questions having to be certified by August 10 by the local Board of Canvassers (BOC) and then has to be sent to the Secretary of State. The BOC is having a meeting on Thursday to certify any questions from tonight. Councilor Perry, in response to questions from Mr. Caron explained the majority of the wording of this proposal was taken from the Portsmouth Charter and did have some help from the Solicitor. Councilor Perry did not confer with the School Department about this proposal. Mr. Caron had a problem with the language in the question for the elector petition. Mr. Katz noted some confliction between this and some of the other proposals. Mr. Larkin opined this was far too substantial a change in the Charter to take in this manner, need to be more introspective. Mr. Larkin was not in favor of this.

President deMedeiros called for any more comments, hearing none closed the Public Hearing. President called for any motions or further discussion from the Council.

At this time Councilor Sousa motioned to adjourn; there was no second to this motion.

Councilor Pelletier made a motion to Approve item c, Town Solicitor – Section 1010 – Removal of Wastewater Management Commission. The motion, seconded by Councilor Chabot passed unanimously.

Councilor Pelletier made a motion to move item d, Town Administrator – Section 1007 – Personnel Board – Amendment for Advertising Requirements. The motion was seconded by Councilor Chabot and repeated by President deMedeiros the motion was to approve Town Administrator – Section 1007 – Personnel Board – Amendment for Advertising Requirements. The motion passed unanimously.

At this time Councilor Sousa made a motion to adjourn; there was no second to this motion.

President deMedeiros called for additional motions or discussion. Councilor Chabot listened to all the speakers, the amendments would have a major impact on the Town, could have unintended consequences. Councilor Chabot, at this time could not support any of these proposals that had to do with the BC or the FTR; opined item g regarding Executive Session does not belong in the Charter, should be in the Governance policy. Councilor Chabot suggested an ad hoc charter review committee to review should be methodically gone through with more discussion than two meetings. Councilor Pelletier thanked everyone for bearing with the Council, agreed with Mr. Larkin and Councilor Chabot; if all of these go through could potentially be chaos. Councilor Pelletier opined it was irresponsible for the Council to approve conflicting amendments. The Charter needs to be updated, opined a Charter Review Commission was the way to go. President deMedeiros questioned if someone wanted to make a motion to table these items and set up a Charter Review Commission and forward these items to them. The Council President had talked to the Town Clerk; a special election could be set up 6 months from now, would not cost a great deal to just open Town Hall. It would be to elect those people and then they would come back to the

Council in a year. President deMedeiros suggested there would be no action on these items and forward to a Charter Review once that gets set up. Councilor Lambert was comfortable with the proposal for item a, the elimination of 50 signatures and the replacement with 500 signatures.

Councilor Lambert made a motion to Approve the proposed Tiverton Home Rule Charter Amendment for November Ballot, section a, the amendment regarding the amount of signatures needed for FTR alternate petition and the proposal by Mr. Perry for 500 qualified elector signatures. The motion was seconded by Councilor Perry and failed on a vote of 2-5, Councilors Lambert and Perry in favor, Councilors Sousa, P. Mello, deMedeiros, Chabot and Pelletier opposed.

Councilor Chabot made a motion to defer items a, b, e, f, h and I for a period of time in order to set up an ad hoc committee or a Charter Review Committee in the future. The motion was seconded by Councilor Sousa; President deMedeiros suggested doing just a Charter Review Commission as those people get elected. Councilor Chabot amended the motion to just do a Charter Review Commission not an ad hoc committee. The amended motion was seconded by Councilor Sousa and passed on a vote of 6-0-1, Councilor Lambert abstained.

At this time Councilor Sousa motioned to adjourn, President deMedeiros suggested also putting forward item g. Councilor Sousa withdrew the motion to adjourn.

Councilor Pelletier made a motion, to send forward item g, holding Executive Session items at the end of the meeting to that same Charter Review Commission. The motion was seconded by Councilor Chabot and passed unanimously.

The minutes were compiled by Clerk, Leona Cook and reviewed by the Town Clerk, Nancy L. Mello.

ADJOURNMENT:

Councilor Sousa motioned to adjourn, seconded by Councilor Chabot, the motion passed unanimously.

The special meeting adjourned at 11:25 p.m.

A True Copy.

ATTEST:

Nancy L. Mello, Town Clerk